

UNITED STATES DISTRICT COURT
for
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

U.S.A. vs. Sylvester Kirkland

Docket No. 5:11-MJ-1761-1

Petition for Action on Probation

COMES NOW Debbie W. Starling, probation officer of the court, presenting a petition for modification of the Judgment and Commitment Order of Sylvester Kirkland, who, upon an earlier plea of guilty to Driving While Impaired (Level 4), in violation of 18 U.S.C. §13, assimilating N.C.G.S. 20-138.1, was sentenced by the Honorable James E. Gates, U.S. Magistrate Judge, on July 11, 2012, to a 12 month term of probation under the standard conditions adopted by the court and the following additional conditions:

1. The defendant shall perform 48 hours of community service as directed by the probation office and if referred for placement and monitoring by the State of North Carolina, pay the required \$200 fee.
2. The defendant shall participate as directed in a program approved by the probation office for the treatment of narcotic addiction, drug dependency, or alcohol dependency which will include urinalysis testing or other drug detection measures and may require residence or participation in a residential treatment facility.
3. The defendant shall abstain from the use of any alcoholic beverages, shall not associate with individuals consuming alcoholic beverages, shall not frequent business establishments whose primary product to the consumer is alcoholic beverages, and shall not use any medication containing alcohol without the permission of the probation office or a prescription from a licensed physician.
4. The defendant shall obtain a substance abuse assessment from an appropriate mental health facility within thirty (30) days from the date of this judgment and complete any prescribed treatment program. The defendant must pay the assessment fee and any added treatment fees that may be charged by the facility.
5. It is further ordered that the defendant shall participate in any other Alcohol/Drug Rehabilitation and Education program as directed by the U.S. Probation Office.
6. The defendant shall surrender his North Carolina driver's license to the Clerk of this Court for mailing to the North Carolina Division of Motor Vehicles and not operate a motor vehicle on the highways of the State of North Carolina except in accordance with the terms and conditions of a limited driving privilege issued by the appropriate North Carolina Judicial Official.

RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS: On August 28, 2012, the defendant reported to the probation office as required by the Surprise Urinalysis Program, and submitted a urine specimen which proved negative for illegal drugs. However, the odor of alcohol was detected about the defendant and he submitted to an Alco-Sensor, which yielded BAC results of .10 and .119. Kirkland admitted that he consumed alcohol the night before in order to sleep. The defendant is currently undergoing intensive outpatient treatment through the VA Medical Center. In order to ensure the defendant is maintaining his sobriety, it is respectfully recommended that he participate in the Remote Alcohol Monitoring Program for a period of 120 days.

The defendant signed a Waiver of Hearing agreeing to the proposed modification of supervision.

PRAYING THAT THE COURT WILL ORDER that probation be modified as follows:

1. The defendant shall abide by all terms and conditions of the Remote Alcohol Monitoring Program, as directed by the probation officer, for a period not to exceed 120 consecutive days. The defendant shall comply with the program procedures and shall pay all costs associated with remote alcohol monitoring services.
2. In conjunction with the Remote Alcohol Monitoring Program, the defendant shall adhere to a curfew as directed by the probation officer for a period not to exceed 120 consecutive days. The defendant is restricted to his residence during the curfew hours.

Except as herein modified, the judgment shall remain in full force and effect.

Reviewed and approved,

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Robert L. Thornton
Robert L. Thornton
Supervising U.S. Probation Officer

/s/ Debbie W. Starling
Debbie W. Starling
U.S. Probation Officer
310 Dick Street
Fayetteville, NC 28301-5730
Phone: (910) 483-8613
Executed On: September 13, 2012

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ORDER OF COURT

Considered and ordered this 17th day of September, 2012, and ordered filed and made a part of the records in the above case.


James E. Gates
United States Magistrate Judge